

BEFORE THE  
POSTAL REGULATORY COMMISSION  
WASHINGTON, DC

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STATUTORY REVIEW OF THE SYSTEM FOR  
REGULATING RATES AND CLASSES FOR  
MARKET DOMINANT PRODUCTS

Docket No. RM2017-3

**COMMENT OF THE  
NATIONAL ASSOCIATION OF LETTER CARRIERS, AFL-CIO**

Pursuant to the Commission's December 1, 2017 *Notice of Proposed Rulemaking for the System for Regulating Rates and Classes for Market Dominant Products* ("Proposed Rulemaking") [Order No. 4258], the National Association of Letter Carriers, AFL-CIO ("NALC") submits this comment on whether the changes to the ratemaking system proposed by the Commission would achieve the objectives in 39 U.S.C. §3622(b). NALC concludes that they would not.

**INTRODUCTION**

We preface our largely critical remarks by acknowledging that the Commission's proposals are a significant step forward. If implemented, the new rate system would provide added assurance for the foreseeable future that the United States Postal Service ("USPS") will continue to compensate its employees in accordance with statutory requirements, pay rent, utilities, fuel and vehicle maintenance, and do whatever else is necessary to deliver the nation's mail.

However, survival alone is not sufficient. The Commission's basic obligation is to ensure that USPS can comply with all the objectives and requirements imposed on it by existing law. Unfortunately, the Commission's analysis – and, consequently, its proposals – fail to do so.

At the outset, the Commission largely ignores the “elephant in the room”: namely, the massive retiree health benefit prefunding costs (“RHBP Costs”) that the Postal Accountability and Enhancement Act (“PAEA”) imposed upon USPS. The prefunding mandate, which no other private or public enterprise bears, accounted for 90.8% of the \$65.1 billion in net losses that USPS incurred between 2007 and 2017:

<b>USPS Net Income/(Loss)</b>	<b>2007</b>	<b>2008</b>	<b>2009</b>	<b>2010</b>	<b>2011</b>	<b>2012</b>	<b>2013</b>	<b>2014</b>	<b>2015</b>	<b>2016</b>	<b>2017</b>	<b>Total</b>
<b>Net Income/(Loss)</b>	<b>(5.1)</b>	<b>(2.8)</b>	<b>(3.8)</b>	<b>(8.5)</b>	<b>(5.1)</b>	<b>(15.9)</b>	<b>(5.0)</b>	<b>(5.5)</b>	<b>(5.1)</b>	<b>(5.6)</b>	<b>(2.7)</b>	<b>(65.1)</b>
Retiree HB Pre-Funding Expenses	\$ (8.4)	\$ (5.6)	\$ (1.4)	\$ (5.5)	\$ -	\$ (11.1)	\$ (5.6)	\$ (5.7)	\$ (5.7)	\$ (5.8)	\$ (4.3)	<u><b>(59.1)</b></u>

The PAEA’s prefunding mandate turned what had been a manageable long-term retiree health liability into a short-term cost that USPS simply could not -- and cannot -- afford. USPS has carried the RHBP Costs on its balance sheet (\$33.9 billion through 2016), but since 2012 USPS has been unable to make the annual payments, which averaged \$5.4 billion. These RHBP Costs have had a devastating impact on USPS’s finances, causing it to exhaust its \$15 billion in borrowing authority, to forgo critical investment in its operations, and to degrade the quality of service.

The PAEA’s “original sin” was to impose the prefunding mandate without giving USPS the ratemaking authority to pay for it. In this tenth year review, the Commission now has the opportunity to correct that fundamental flaw in the ratemaking system. Indeed, it is imperative that the Commission’s rulemaking under the PAEA take account of the entire statute, including the prefunding mandate.

The Commission’s analysis suffers from several additional, fundamental flaws. First, it fails to recognize the extent to which the Commission itself contributed to USPS’s current financial instability by terminating the 2014 exigent increase. Second, the Commission fails properly to take into account the indisputable fact that USPS’s operating profits in recent

years were derived largely from degrading service and failing to make vital capital investments. And third, the Commission's proposal provides no realistic possibility that USPS will achieve the revenues necessary to allow it to pay down its debt, even apart from the prefunding mandate.

As NALC explained in its March 20, 2017 Comment [Filing ID #99522] ("NALC Comment"), of the nine objectives set forth in 39 U.S.C. §3622(b), one -- Objective #5 -- is necessarily paramount. Objective #5 provides that the rate system should be designed to "assure adequate revenues" so that USPS can "maintain financial stability." *Id.* §3622(b)(5). Without adequate revenues, USPS cannot fulfill its core mission. It cannot effectively "bind the Nation together" with "prompt, reliable, and efficient services" to every community in the United States. 39 U.S.C. §101(a). Nor, without adequate revenues, can USPS achieve the other objectives and requirements set forth in the statute, most notably the prefunding mandate.

The Commission's proposals rest on the incorrect assumption that USPS has achieved short-term financial stability. Moreover, while the Commission correctly diagnosed USPS as falling well short of medium- and long-term financial stability, the measures it prescribes are insufficient to allow USPS to achieve such stability, particularly taking into account the prefunding mandate, USPS's capital investment needs, and its outstanding debt.

The Commission proposes giving USPS authority to increase rates for market dominant products each year for five years by up to 2% above the CPI-U (referred to here as the "CPI+2% Proposal"). This proposal rests on a grave underestimate of the depth of USPS's medium-term financial instability. In addition, the Commission proposes authorizing USPS to increase market dominant rates an additional 0.75% if it meets certain efficiency targets, and an additional 0.25% if it maintains service standards (referred to here as the ".75%+.25% Proposal"). That proposal would leave USPS far short of achieving long-term financial stability.

Moreover, the .75%+.25% Proposal would frustrate the achievement of other §3622(b) objectives. It would lead to frequent, complicated and unpredictable rate proceedings before the Commission over whether USPS achieved the efficiency targets in a given year.

Even worse, by giving more value to efficiency targets than service standards, the .75%+.25% Proposal would create an incentive for postal management to sacrifice service for the sake of efficiency gains, in contravention of the statute.

Finally, the Commission's proposed rulemaking fails to provide USPS the ratemaking flexibility it may need to respond in the future to factors outside of USPS's control, such as an increase in delivery points, technological advances that accelerate electronic diversion, or government action that imposes significant new costs on USPS.

NALC offers an alternative set of proposals which would allow USPS to satisfy Objective #5 and other §3622(b) objectives. First, NALC proposes a one-time "true up" rate increase for market dominant products of at least 10%, to take effect in 2018 or to be spread out over five years. Next, NALC proposes that CPI-Delivery Services ("CPI-DS") replace CPI-U as the index for the price cap on market dominant products. NALC also proposes that the Commission amend its exigent rate regulation to allow USPS to seek supplemental rate authority in response to non-emergency exogenous factors, such as significant new market conditions or significant new costs imposed on USPS by congressional, administrative or other government action. Finally, NALC proposes that the Commission revise its .75%+.25% Proposal to eliminate the efficiency-based criterion and to base the entire 1% additional rate authority on USPS maintaining service standards.

NALC's proposal would satisfy Objective #5 by assuring USPS enough revenues to achieve short-, medium- and long-term financial security, while also creating the conditions for meeting the prefunding mandate and achieving the other crucial objectives in the law.

The one-time "true up" would go a long way toward helping USPS achieve the short-term financial footing it would have achieved under the current rate-setting system had: (1) USPS, to cover the cost of prefunding future retiree health benefits, used its authority in 2007 to obtain a last cost-based rate increase before the price cap regime mandated by the

PAEA took effect, and (2) the Commission made the January 2014 exigent price increase permanent.

The price cap under the CPI-DS index would provide USPS the additional rate authority it critically needs, while retaining the virtues of the current price cap system, including predictability of rate increases, transparency, and ease of administration. Moreover, it would appropriately benchmark USPS's price increases to those of private-sector companies in the delivery industry in which USPS participates.

NALC's proposed amendment to the exigency regulation would allow USPS the rate flexibility needed to remain solvent in the face of such exogenous factors as changing market conditions or significant new government mandates. Of course, any rate increases under this proposed amendment would be subject to Commission review and approval.

Finally, NALC proposes that the Commission's 75%+.25% Proposal be changed to make the 1% additional rate authority entirely contingent on USPS maintaining service standards. That would give USPS an incentive to maintain the quality of service needed to attract customers and thereby remain a viable business.

For the reasons explained further below, the Commission should adopt NALC's proposals.

**I. THE COMMISSION'S PROPOSED RULEMAKING WOULD NOT ACHIEVE THE OBJECTIVES IN 39 U.S.C. §3622(b)**

**A. The Commission's Proposed Rulemaking Would Not Allow USPS to Achieve Financial Stability**

The central flaw in the Commission's proposed rulemaking is that it would not satisfy Objective #5, namely, assuring USPS sufficient revenues to achieve financial stability.

**1. The Commission's Proposed Rulemaking Rests on the Incorrect Assumption that USPS Has Achieved Short-Term Financial Stability**

First, the Commission's proposed rulemaking falls short of satisfying Objective #5 because it rests on the incorrect assumption that USPS has already achieved short-term

financial stability. It therefore provides no measures for USPS to achieve short-term financial security going forward.

The Commission considers USPS to have achieved short-term financial stability in any year that USPS's operating revenue exceeded its operating expenses, yielding an operating profit. See Commission's Dec. 1, 2017 *Order on the Findings and Determination of the 39 U.S.C. §3622 Review*, Docket No. RM2017-3 ("*Findings*"), at 159. This definition sets a low bar, deeming USPS to have achieved short-term financial stability if its operating revenues exceed operating costs by only a penny. A better definition would require some reasonable amount of retained earnings in a given year, ensuring that USPS has a modest cushion before it is deemed to have achieved short-term financial stability.

But the Commission's finding that USPS achieved short-term financial stability in the last ten years is erroneous even using the Commission's definition. Before the onset of the Great Recession, USPS achieved an operating profit in FY 2007 and FY 2008, but experienced operating losses in each of the next four fiscal years, through FY 2012. See *Findings* at 162 (Table II-7). The Commission asserts that during those four years, when USPS was in the red, with operating losses totaling almost \$6.4 billion, it nonetheless had an "adjusted" operating profit because it retained borrowing authority and had cash reserves. See *id.* at 164 (Table II-8). Such an "adjusted" operating profit analysis ignores the reality of USPS's short-term financial stress during those years. By analogy, a household cannot be said to have achieved short-term financial stability if it has to rack up credit card debt and deplete savings to pay the rent and buy groceries.

In FY 2013 through FY 2017, USPS eked out modest operating profits but, significantly, in FY 2014, FY 2015 and FY 2016, USPS was in the black only by virtue of the temporary exigent rate surcharge awarded by the Commission to allow USPS to recoup contribution lost in the Great Recession. See *Findings*, at 162 & n.264. The Commission could have -- and should have -- made the exigent surcharge permanent, since the mail volume

losses accelerated by the Great Recession have been permanent. Having wrongly made the exigent surcharge a temporary, one-time injection of cash to USPS instead of a permanent increase, the Commission errs again by concluding that the temporary surcharge created short-term financial stability.

Without the revenue from the exigent rate increase, USPS's operating results for FY 2014, FY 2015 and FY 2016 would have looked quite different. In fact, as the table below shows, USPS would have had operating deficits ("controllable losses") in all three years:

<b>USPS Adjusted Controllable Income/(Loss) FY2014-2016</b>			
\$ bil	FY2014	FY2015	FY2016 <sup>(1)</sup>
Revenue	\$67.830	\$68.928	\$70.437
Controllable Expenses	\$66.473	\$67.740	\$69.827
<b>Controllable Income/(Loss)</b>	<b>\$1.357</b>	<b>\$1.188</b>	<b>\$0.610</b>
Less Temporary Exigent Revenue	\$1.403	\$2.118	\$1.136
<b>Adj. Controllable Income/(Loss)</b>	<b>(\$0.046)</b>	<b>(\$0.930)</b>	<b>(\$0.526)</b>
1) FY 2016 revenue excludes \$1.061 billion deferred revenue/prepaid postage, recognized in FY 2016.			

It should be noted that USPS was unable to achieve a real operating profit over most of the PAEA era despite making enormous strides cutting costs. From FY 2006 through FY 2015, USPS drove down its total expenditures by \$13.7 billion (adjusted for inflation), mostly from labor cost savings. See USPS Office of Inspector General ("OIG"), *Peeling the Onion: The Real Cost of Mail*, Report No. RARC-WP-16-009 (April 18, 2016), at 2. Among other things, USPS made deep cuts in its career workforce, from approximately 696,000 employees in 2006 to 492,000 in 2015. See *id.* at 8 n.19. To save money during this period, USPS also skimped on capital expenditures, spending less on operation-improving investments than either FedEx or UPS, despite having higher revenues than either of those two competitors. See *id.*

In addition to cutting labor costs, USPS also cut costs by slashing services and degrading service quality. For example, USPS closed hundreds of Post Offices and drastically

cut retail hours at thousands of others. See U.S. Government Accountability Office (“GAO”), *U.S. Postal Service: Post Office Changes Suggest Cost Savings, but Improved Guidance, Data, and Analysis Can Inform Future Savings Efforts*, GAO-16-385 (April 2016), at 9, 12 (from 2012 to 2014, USPS reduced hours at 9,159 Post Offices); GAO, *U.S. Postal Service: Challenges Related to Restructuring the Postal Service’s Retail Network*, GAO-12-433 (April 2012), at 1 (USPS closed 651 Post Offices in five years prior to 2012). USPS also eliminated thousands of its collection boxes, prompting complaints from customers. See OIG, *Collection Box Removal Process - Eastern Area*, Report No. DR-AR-16-007 (Aug. 22, 2016), at 1 (USPS removed over 12,000 collection boxes in the five years prior to 2016). In other cost saving measures, USPS closed nearly a third of its mail processing facilities (143 out of 461) and relaxed its service standards, increasing the number of days it takes to deliver First-Class Mail and periodicals. See GAO, *U.S. Postal Service: Information on Recent Changes to Delivery Standards, Operations, and Performance*, GAO-14-828R-Postal Delivery (Sept. 26, 2014), at 3, 9-10.<sup>1</sup>

During these same years, USPS made great gains in efficiency, as evidenced by the steep rise, following the onset of the Great Recession, of total factor productivity (“TFP”). See OIG, *Peeling the Onion*, Report No. RARC-WP-16-009, at 2. One example of this productivity growth: the nearly 30% increase from 2007 to 2017 in delivery points per city carrier route. In response to declining letter mail volume, USPS eliminated routes and adjusted others pursuant to collectively bargained memoranda of understanding, increasing average delivery points per route from 486 to 629. See USPS *Annual Reports*.

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<sup>1</sup> USPS has lacked the capacity even to meet these relaxed service standards, resulting in a substantial increase in delayed mail. See OIG, *Management Alert -- Substantial Increase in Delayed Mail*, Report No. NO-MA-15-004 (Aug. 13, 2015), at 1-2 (494 million pieces of delayed mail in six months following the January 2015 service standard changes); see also OIG, *Timeliness of First-Class Mail Flats; Audit Report*, Report No. NO-AR-17-001 (Oct 6, 2016), at 1.

USPS's inability, despite these extraordinary cost-cutting measures and productivity increases, to achieve a real operating profit in most years since the PAEA took effect makes clear that USPS has not achieved short-term financial stability under the current price cap regime. The Commission's failure to propose any measure to allow USPS to achieve short-term financial stability leaves the Commission's proposal grossly inadequate and at odds with Objective #5.

**2. The Commission's Proposed Rulemaking Would Be Insufficient to Allow USPS to Achieve Medium- or Long-Term Financial Stability**

The Commission correctly determined that USPS has failed to achieve medium-term or long-term financial stability under the current ratemaking system. *See Findings* at 4. However, the Commission's proposed remedy for this medium-term and long-term financial instability -- the CPI+2% and the .75%+.25% proposals, respectively -- would fall far short of providing USPS the financial stability it needs. The Commission's proposals will incentivize USPS management to continue the self-destructive and short-sighted practice of trying to save money by degrading the quality of service. It would also lead USPS to continue to defer indefinitely the capital investments it needs to achieve productive and efficient operations.

**(a) The Commission's CPI+2% Proposal Rests on a Grave Underestimate of USPS's Medium-Term Financial Instability**

According to the Commission, to achieve medium-term financial security, USPS would need a positive net income, meaning its total revenue would need to exceed the sum of its attributable and institutional costs. *See Findings*, at 165. Like its definition of short-term financial security, the Commission's definition of medium-term financial security sets a low bar, merely requiring that total revenue exceed costs by a penny. It does not require at least some reasonable level of retained earnings to allow USPS a cushion to ride out the inevitable ups and downs of the business cycle. In any event, even using this definition, the Commission determined that USPS failed to achieve medium-term financial security because in every fiscal

year from 2007 to 2016, USPS's net income was negative -- by multiple billions of dollars each year. See *Findings*, at 168 (Table II-10).

The Commission bases its CPI+2% Proposal on USPS's negative net income in 2017, which the Commission concluded was \$2.7 billion. See *Proposed Order*, at 40 ("Based on the FY 2017 net loss of \$2.7 billion, the Postal Service would need additional revenue of \$2.7 billion to achieve medium-term financial stability ....") (footnote omitted). According to the Commission, a one-time increase in rates for market dominant products of 5.7% above CPI-U would provide USPS with this needed \$2.7 billion. See *id.* at 41. However, instead of a one-time increase, the Commission proposes to spread the increase over five years, allowing USPS to capture the equivalent amount by increasing its rates by 2% over CPI-U each year for the next five years. See *id.* at 42 (explaining that 2% increases over the CPI-U cap for 5 years "produces estimated revenues with a net present value equal to that of a one-time rate increase of 5.7 percent above CPI-U followed by 4 years of inflation-only increases").

One basic flaw in the Commission's proposal is its assumption, for purposes of calculating the amount of revenue USPS could generate over the five years, that mail volume would stay constant. See *Proposed Rulemaking*, at 42 ("These estimates of future revenues are developed by applying the future rate of increase to current mail volumes.") This assumption may not be realistic. Although First Class mail volume elasticity is low (and may be diminishing), rising postage rates may nonetheless cause modest decreases in volume.<sup>2</sup> The extent to which electronic diversion will continue to diminish First Class letter mail volumes is unknowable. If letter mail volume does decline over the next five years, the proposed additional 2% increases would not generate the \$2.7 billion that the Commission says USPS needs for medium-term financial stability.

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<sup>2</sup> With presumed price elasticities of -0.169 for First-Class Mail, -0.538 for Marketing Mail, -0.202 for Periodicals Mail, and -0.467 for Package Services, a CPI-U plus 2% increase would be expected, on its own, to push down volume by about 5.3 billion pieces.

The Commission is, of course, aware of the limits of its assumption of constant mail volume, and concedes that it “reasonably anticipates” that the projected \$2.7 billion is more than USPS “would actually generate.” *Proposed Rulemaking*, at 43. Faced with this quandary, the Commission simply asserts that “the Commission intends for Postal Service cost reductions and operational efficiency gains to close the gap.” *Id.* It is at this point in its analysis that the Commission appears to leave the path of responsible regulatory action and to wander down the road of wishful thinking. USPS can’t create “cost reductions and operational efficiency gains” out of thin air. As noted above, over the last ten years, USPS has made strides on both fronts, but it is questionable at best whether USPS can continue to increase efficiency without new capital investment in its operations or can continue to trim costs without degrading service standards and quality. Given this uncertainty, the CPI+2% Proposal seems like nothing more than a “Hail Mary” pass.

Even aside from the problem of the Commission’s unrealistic assumption of constant mail volume, its proposal to fix USPS’s medium-term financial instability is still flawed. The Commission provides no persuasive explanation for why it chose USPS’s net loss in FY 2017 as the basis for calculating its proposed remedy for USPS’s lack of medium-term financial stability. Given that USPS had a net loss every year from 2006 to 2017, the Commission’s choosing net loss in one year seems arbitrary. Moreover, when the Commission issued its *Findings* in December 2017, FY 2017, which ran from October 1, 2016 to September 30, 2017, had already ended. Any remedy would have to apply to fiscal years after 2017. If one year is to be chosen for purposes of calculating the needed remedy, it should be FY 2018, the year in which the Commission will likely implement its proposed rulemaking.

USPS projects that in FY 2018, it will have a net loss of \$5.2 billion. See USPS, *Fiscal Year 2018 Integrated Financial Plan*, at 3. But that projected \$5.2 billion net loss is understated, since it excludes the cost of amortizing the \$33.9 billion in RHBP Costs that USPS has expensed but not paid through FY 2016. Amortized over 40 years, with a discount rate of

3.7%, the RHBP Costs would require annual payments of \$1.6 billion.<sup>3</sup> Added to USPS's projected net loss of \$5.2 billion for FY 2018, the annualized \$1.6 billion RHBP Costs would increase to \$6.8 billion the amount needed, under the Commission's framework, to remedy USPS's medium-term financial instability.

Even if one used FY 2017 for the analysis, as the Commission did, one would need far more than \$2.7 billion. Adding the annualized RHBP Costs would deepen USPS's net loss for that year by an additional \$1.6 billion -- to \$4.3 billion. Moreover, USPS's FY 2017 net income figure includes a positive \$2.2 billion workers' compensation accounting adjustment. See USPS's 2017 Form 10-K, at 17 (indicating a \$1.362 billion positive "[c]hange in workers' compensation liability resulting from fluctuations in discount rates" and a \$850 million positive "[o]ther change in workers' compensation liability").<sup>4</sup> Including this positive \$2.2 billion is inappropriate. Workers' compensation cost adjustments vary each year, depending on interest rates and claims experience, and are far more often negative than positive. As indicated in the chart below, in the eleven fiscal years from 2007 to 2017, workers' compensation adjustments were positive in only three -- including FY 2017. When negative, they have been negative by over \$2 billion, as they were in 2010, 2011 and 2012, and, when positive, they have been positive by the relatively small amounts of a fraction of \$1 billion, as they were in 2007 and 2013. The positive \$2.2 billion in FY 2017, which in any other year could have been much different, in no way reflects the ongoing financial condition of USPS.

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<sup>3</sup> See Aug. 10, 2017 *Notice of Supplemental Information*, Docket No. RM-2017-3. Such a 40-year amortization rate is generous; under the PAEA, the amortization period is set to decline to 15 years, which will result in substantially higher annual payments.

<sup>4</sup> For a full description of these adjustments, which are common in USPS financial statements, see OIG, *Management Advisory -- Workers' Compensation Liability Estimate*, Report No. FT-MA-11-002 (Dec. 23, 2010).

<b>Workers' Compensation Expense Components FY2007-2017</b>											
\$ bil	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017
<b>Accounting</b>	<b>\$0.1</b>	<b>(\$0.2)</b>	<b>(\$1.1)</b>	<b>(\$2.4)</b>	<b>(\$2.4)</b>	<b>(\$2.3)</b>	<b>\$0.3</b>	<b>(\$1.2)</b>	<b>(\$0.3)</b>	<b>(\$1.2)</b>	<b>\$2.2</b>
Cash	(\$1.0)	(\$1.0)	(\$1.1)	(\$1.1)	(\$1.3)	(\$1.4)	(\$1.4)	(\$1.4)	(\$1.5)	(\$1.5)	(\$1.4)
<b>WC Expense</b>	<b>(\$0.9)</b>	<b>(\$1.2)</b>	<b>(\$2.2)</b>	<b>(\$3.6)</b>	<b>(\$3.7)</b>	<b>(\$3.7)</b>	<b>(\$1.1)</b>	<b>(\$2.6)</b>	<b>(\$1.8)</b>	<b>(\$2.7)</b>	<b>\$0.8</b>

Given the volatility of workers' compensation adjustments, and the frequency with which they have been significantly negative, it makes no sense to base the remedy for USPS's medium-term financial instability on the happenstance of a sizable positive workers' compensation adjustment in FY 2017.

With the positive \$2.2 billion workers' compensation adjustment stripped from USPS's FY 2017 net income, and the \$1.6 billion in annualized RHBP Costs added, the FY 2017 net loss becomes \$6.5 billion.

When properly measured, USPS's FY 2017 actual net loss and its FY 2018 projected net loss yield similar results: a hole of either \$6.5 or \$6.8 billion that would have to be remedied to bring USPS to medium-term financial security. The Commission's CPI+2% Proposal would come nowhere near filling that hole, even if, as the Commission hopes, USPS can continue to boost efficiency and cut costs. The CPI+2% Proposal thus fails to satisfy Objective #5

**(b) The Commission's .75%+.25% Proposal Would Not Be Enough for USPS to Achieve Long-Term Financial Stability**

The Commission correctly recognizes that to achieve long-term financial stability, USPS must generate sufficient net income year after year to generate retained earnings, which can then be used to invest in capital improvements and pay down debt. See *Findings*, at 169. The Commission acknowledges that USPS has, over the decade beginning in 2006, not only failed to generate retained earnings but has instead generated a deficit of over \$59 billion. See *id.* at 171 (Table II-12). USPS's debt-to-revenue ratio has more than tripled. See *id.* at 175 (Figure II-11).

With a complete lack of working capital during the entire PAEA era, USPS's expenditures on capital fell from about 4% of revenue in FY 2007 to a miserable 2% of revenue in FY 2016. See *id.* at 173-174. This has prevented USPS from spending as needed to repair, maintain and upgrade its operations. For example, most of USPS's delivery vehicles are nearing or have exceeded their expected service life, yet financial constraints have prevented USPS from implementing plans to replace them. See OIG, *Delivery Vehicle Fleet Replacement*, Report No. DR-MA-14-005 (June 10, 2014), at 1. Data from USPS's 10-K reports show that, as a result of its aging fleet, USPS's vehicle maintenance costs have soared, increasing by over 55%, from \$402 million per year in 2006 to \$624 million in 2016.

Aging vehicles are just part of the problem. Under the CPI-U price cap, USPS has lacked the resources it needs to maintain its facilities and operations. In 2012, USPS's capital commitments were the lowest since 1988. See USPS 2012 Form 10-K, at 50. In 2013, USPS noted that it was limiting capital spending to "below average historical levels" in order to conserve cash, giving priority to those capital projects that either were required by legal, safety or health reasons, were for customer service, or provided a high return on investment and a short payback period. See USPS 2013 Form 10-K, at 47. A November 2013 OIG report found that USPS was unable to complete many thousands of needed repairs, including repairs that affect safety and security. See OIG, *Spending Trends for Maintaining Postal Facilities*, Report No. SM-AR-14-002 (Nov. 27, 2013), at 1 (emphasis added).

As the OIG has noted, USPS's level of capital expenditure "pales in comparison to that of its competitors." OIG, *Peeling the Onion*, Report No. RARC-WP-16-009, at 2. While USPS had substantially higher revenue than both UPS and FedEx from FY 2006 to 2014, its total capital expenditures, \$13 billion, fell well behind FedEx's \$25.5 billion and UPS's \$18.5 billion. See *id.* USPS's capital expenditures also took longer to recover from the Great Recession. As their annual reports show, UPS's and FedEx's capital expenditures had bottomed out, and were already recovering, by 2010 and 2009, respectively. By contrast,

USPS's capital expenditures did not start to grow again following the Great Recession until 2013.

In order to put USPS back on the path to long-term financial stability, the Commission proposes allowing USPS 1% per year additional rate authority for market dominant products, but only if USPS meets certain performance targets. *See Proposed Ratemaking* at 54. In particular, USPS would be allowed an additional 0.75% annual rate increase if USPS achieves at least a 0.606% annual growth in TFP, measured over a rolling five-year look-back period. *See id.* at 60. USPS will be allowed an additional 0.25% annual rate increase if USPS in a given fiscal year meets or exceeds existing service standards. *See id.* at 70. The Commission predicts that the 1% additional rate authority would allow USPS to return to pre-PAEA levels of capital outlays in just over 2 years, would yield \$7.8 billion in net capital assets in about 5 years, and would allow USPS to pay off its \$15 billion debt in about 9 years. *See id.* at 54.

Like its CPI+2% Proposal, the Commission's .75%+.25% Proposal rests on the assumption that market dominant mail volumes will remain constant. *See Proposed Rulemaking* at 54. But if mail volumes fall in coming years, the 1% additional rate authority would produce less revenue than the Commission projects. In particular, falling volume would make a shambles of the Commission's predictions about the number of years it would take to restore pre-PAEA levels of capital outlays, build up capital assets and pay down debt. As it does with the CPI+2% Proposal, the Commission responds to this obvious flaw in its analysis with nothing more than wishful thinking: that somehow USPS will improve operational efficiency enough to counteract the effects of falling volume. *See Proposed Ratemaking*, at 54. The Commission, however, fails to explain how USPS, especially when deprived of needed funds, could achieve the operational improvements required to increase efficiency.

Indeed, even more than the Commission's CPI+2% Proposal, the Commission's .75%+.25% Proposal suffers from a fundamental cart-before-the-horse problem. Under the

.75%+.25% Proposal, USPS needs to reach certain performance targets just to get the additional rate authority. In other words, the proposal makes the additional revenue that USPS needs to improve its performance contingent on USPS first achieving improved performance.

In its *Proposed Rulemaking*, the Commission describes what it terms the “Financial Health Cycle,” whereby net income leads to retained earnings, which leads to capital investment, which leads to increased efficiency, which leads to the reduced costs and increased revenue, which -- completing the cycle -- leads back to more net income. See *Proposed Rulemaking*, at 47 (Figure III-2). The Commission’s .75%+.25% Proposal ignores the core concept of this cycle -- that it takes money to generate performance. Starved for capital improvements and heavily in debt, USPS is hardly in a position to achieve the performance needed to earn the additional 1% rate authority.

Even if, despite the obstacles, USPS achieved the performance needed to earn the 1% additional rate authority, would that give USPS long-term financial stability? The Commission contends that the 1% would return USPS to pre-PAEA levels of capital outlays. *Proposed Rulemaking*, at 54. Such pre-PAEA levels, however, would not provide USPS with long-term financial security. In 2006, just before the PAEA took effect, USPS, by its own admission, had insufficient capital expenditures. See USPS, *FY 2006 Annual Report*, at 34 (in 2006, USPS lacked sufficient cash flow to meet escrow requirements and fund capital investments). For example, by 2006, USPS’s vehicle fleet was already well on its way to obsolescence. See GAO, *Audit Report: Delivery Vehicle Replacement Strategy*, Report Number DA-AR-10-005 (June 2010), at 5 (most of USPS’s delivery vehicles were between 16 and 23 years old and nearing the end of their life expectancies). Accordingly, even if USPS’s .75%+.25% Proposal could return USPS to pre-PAEA levels of capital expenditure, the proposal would still not allow USPS to achieve long-term financial security.

**B. The Commission's .75%+.25% Proposal Would Increase the Administrative Burden of the Ratemaking Process and Incentivize USPS to Reduce Service Standards**

Not only would the Commission's .75%+.25% Proposal fail to satisfy Objective #5, namely, assuring USPS adequate revenues, it would run counter to other §3622(b) objectives, notably Objective #6, which seeks to “reduce the administrative burden and increase the transparency of the ratemaking process.” The Commission's .75%+.25% Proposal would frustrate Objective #6 by requiring the Commission, in implementing the Proposal, to undertake lengthy and complex ratemaking proceedings that would have unpredictable outcomes. To determine whether USPS earned the additional .75% rate authority, the Commission each year would need to determine whether USPS's TFP met the target. TFP is not a readily available figure but must be determined through multiple, complex calculations, and USPS's methods for doing so are less than transparent. See *generally* March 20, 2017 Declaration of Lyudmilla Y. Bzhilyanskaya for the Public Representative, Docket No. RM2017-3, at 3-7.<sup>5</sup> Disputes between stakeholders over how TFP should be calculated and what data should be used for such a calculation would almost inevitably generate contentious and drawn-out hearings. Indeed, the repeated, complex rate proceedings required by the .75%+.25% Proposal would be reminiscent of the administratively burdensome Postal Rate Commission proceedings that Congress aimed to eliminate when it enacted the PAEA.

The Commission's .75%+.25% Proposal also runs counter to Objective #3, namely, “[t]o maintain high quality service standards.” The Proposal offers USPS the possibility of .25% additional rate authority if it maintains service standards, but offers three times as much additional rate authority -- .75% -- if USPS hits the efficiency target. By making the achievement of efficiency goals three times more valuable than the maintenance of service standards, the .75%+.25% Proposal creates an incentive for USPS to achieve efficiency gains at the expense

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<sup>5</sup> TFP also suffers from severe limitations as a reliable measure of efficiency. See *id.* at 8-12.

of service. For example, to deliver the same volume of mail with fewer inputs of labor and other resources, USPS might be tempted to lengthen delivery times even further. Such an “efficiency” gain might win USPS more rate authority under the first prong of the .75%+.25% Proposal, but in reality it would harm the business, since the degradation of service would inevitably diminish customer use of the mail. By encouraging USPS to further undermine service standards, the Commission’s .75%+.25% Proposal would create the wrong incentives and would run counter to Congress’ plain intent, expressed in Objective #3, that USPS “maintain high quality service standards.”<sup>6</sup>

For all the reasons explained above, the Commission’s proposed rulemaking fails to achieve the objectives of 39 U.S.C. §3622(b).

## **II. NALC’s PROPOSAL WOULD ACHIEVE THE OBJECTIVES IN 39 U.S.C. §3622(b)**

NALC proposes that, in lieu of the Commission’s proposed rulemaking, the Commission adopt the following measures that would achieve the objectives of 39 U.S.C. §3622(b): (1) a one-time “true up” rate increase for market dominant products of at least 10%, to take effect in 2018 or to be spread out over five years beginning in 2018; (2) the replacement of the CPI-U index with the CPI-DS index as the price cap on market dominant products; (3) amendment of the Commission’s exigent rate regulation to provide USPS the flexibility to increase rates in response to exogenous factors, including market developments such as delivery point growth and technologically-driven volume declines, as well as legislative,

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<sup>6</sup> USPS’s Network Rationalization Initiative (“NRI”) provides an example of USPS’s short-sighted preference for efficiency over quality. USPS began NRI in 2012, seeking to streamline operations in the face of declining mail volume and excess capacity in its mail processing plants. USPS projected that NRI would save it \$1.1 billion annually. In order to achieve this network efficiency, USPS planned to close almost half of its 461 processing facilities and to reduce single-piece First-Class Mail service standards, effectively eliminating overnight delivery. Faced with concerns over delayed mail expressed by customers and other USPS stakeholders, USPS suspended NRI indefinitely in 2015, after closing 156 processing facilities. In a 2016 audit report, OIG found that USPS had *not* achieved its projected savings. See OIG, *Mail Processing and Transportation Operational Changes*, Report No. NO-AR-16-009 (Sept. 2, 2016), at 25.

administrative or other government mandates; and (4) a revision of the Commission's .75%+.25% Proposal to eliminate the efficiency-based criterion and to base the entire 1% additional rate authority on USPS maintaining service standards.

**A. The One-Time “True-Up”**

First, NALC proposes a “true up” of market dominant product prices of at least 10%, either to take effect in 2018 or to be spread out over five years beginning in 2018.

The PAEA allowed USPS, for one year following its enactment, to initiate a rate proceeding under the pre-PAEA cost-based ratemaking system. See 39 U.S.C. §3622(f). Had USPS in 2007 initiated such a rate proceeding, the resulting rate increases would have given USPS a higher baseline of market dominant rates as it entered the price cap regime and helped it achieve financial stability. In particular, such a rate increase would have allowed RHBP Costs to be built into baseline rates for market dominant products.

USPS, however, made a decision, understandable then but regrettable now, not to seek higher rates. At the time, USPS's operations were profitable. See USPS, *FY 2006 Annual Report*, at 3. Moreover, with USPS's customers already beginning to feel the chill of the coming Great Recession, it may have seemed ill advised to increase rates.<sup>7</sup>

Now is the time to allow USPS to make up for that lost 2007 opportunity, by letting it implement a one-time “true up” that would help put it on the road to financial stability. Unlike the macroeconomic conditions in 2007 that may have made a rate increase ill advised, we now have an economy projected to grow at a healthy rate, with near full employment. See Board of Governors of the Federal Reserve System, Federal Open Market Committee, *Summary of Economic Projections*, Dec. 13, 2017.<sup>8</sup> Moreover, USPS now needs the increased

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<sup>7</sup> USPS apparently did not consider the option of delaying the implementation of the last cost-based rate increase until the economy improved.

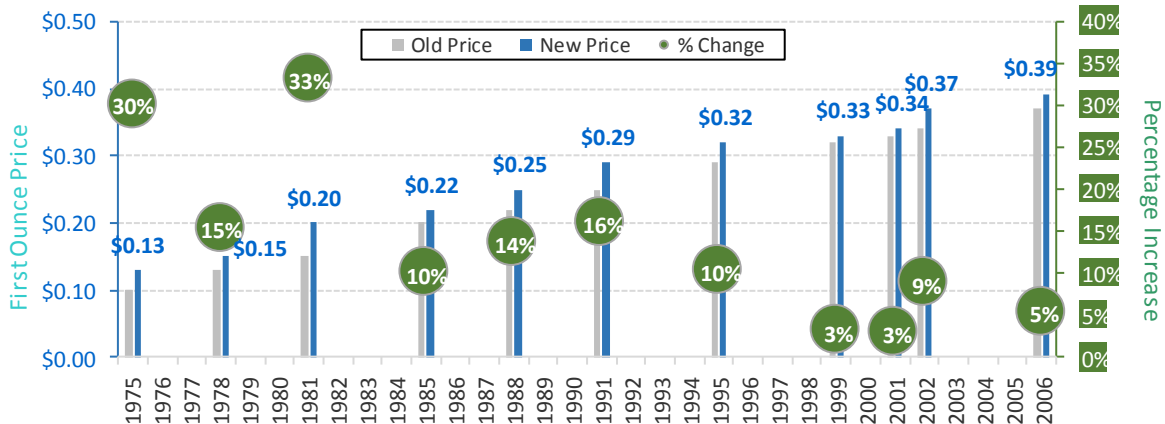
<sup>8</sup> <https://www.federalreserve.gov/monetarypolicy/fomcprojtabl20171213.htm>.

revenue, since, as explained above, it has not achieved short-, medium- or long-term financial stability.

The proposed one-time “true up” can be seen not only as a remedy for USPS’s lost opportunity for a cost-based rate increase in 2007, but also as a remedy for the expiration of the exigent rate increase. As explained above, it was only due to the exigent rate increase that USPS achieved an operating profit in FY 2014, 2015 and 2016. The Commission could have, and should have, made the exigent rate increase permanent. The exigent increase aimed to allow USPS to recover revenue lost when the Great Recession accelerated the decline of mail volume. See December 24, 2013 *Order Granting Exigent Price Increase*, Docket No. R2013-11 (Order No. 1926). That lost volume has never been restored -- and likely never will be. Yet, the Commission determined that it would only allow USPS finite relief, with the rate surcharge expiring once USPS reached a post-recession, so-called “new normal.” *Id.* at 94. The one-time “true up” proposed here, by putting USPS on a higher rate scale going forward, seeks in part to rectify the Commission’s misguided decision to make the exigent rate relief temporary.

NALC recognizes that a “true up” of at least 10% might be perceived as extraordinary, but restoring USPS to financial stability, so that it can continue to provide the critical services it provides to the American people, requires such a measure. In any event, a one-time rate increase of this magnitude would not be out of line with past one-time rate increases. As the chart below shows, in the years prior to the PAEA, USPS increased First-Class rates by 10 percent or more at least seven times.

## First-Class Single Piece Rates History 1975-2006



Nor is there reason to believe that the “true up” that NALC proposes would have an undue impact on mail volume. The 2014 exigent rate increase of 4.3%, combined with the CPI-based increase of 2%, effectively raised rates by 6.3% that year. Despite dire predictions from some quarters, that rate hike had very modest effects on mail volume.<sup>9</sup>

For the foregoing reasons, NALC proposes a one-time “true up” of market dominant rates of at least 10%, effective in 2018 or spread out over five years beginning in 2018.

### **B. The Price Cap Based on the CPI-DS Index**

In addition to a one-time “true up,” NALC proposes that CPI-DS replace CPI-U as the price cap index.

CPI-U measures the change of prices over time for *all* consumer goods. This broad index tracks the prices of all the millions of goods and services purchased by consumers for day-to-day living, such as food, clothing and shelter. In 1998, the Bureau of Labor Statistics

<sup>9</sup> The Association of Magazine Media, for example, warned in an August 28, 2013 statement that an exigent increase would “cause severely adverse, and likely irrevocable, consequences for mail volume and revenue.” In fact, the exigent rate increase led to only a slight decline in letter mail volume, and letter mail revenue rose between 2013 and 2016.

made changes to its market basket to produce a more accurate “all items” index for the CPI. One of these changes was the addition of the delivery services index.

CPI-U is flawed as a PAEA price cap benchmark. As an index of *all* consumer prices, it is far too broad a measure for postage rates. The vast majority of the items purchased by consumers -- food, clothing, shelter, *etc.* -- have nothing to do with the production factors involved in the operation of a national delivery service like USPS's.

By contrast, CPI-DS measures consumer prices charged by private-sector delivery services. It would serve well as a benchmark for postage rates because the same factors that drive private-sector delivery prices – energy, transportation service expenses, and labor costs – also drive postal prices. Because USPS's market dominant products are required to cover all these same costs, CPI-DS would provide a more accurate and appropriate benchmark for postage rates.

Since NALC's proposal would continue the price cap, albeit under a different index, it would share all the virtues that the Commission sees in the current price cap regime. In particular, a price cap under CPI-DS would continue to satisfy Objective #2 by creating predictable and stable rates and would satisfy Objective #6 by keeping the administrative burden of the ratemaking process low and its transparency high. There would be no need for complex, lengthy and contentious ratemaking proceedings of the sort that the Commission's .75%+.25% Proposal would require.

NALC's proposal would also serve Objective #1, namely, to “maximize incentives to reduce costs and increase efficiency.” Under NALC's proposal, in the absence of rate increases based on performance or on exigent or exogenous circumstances, USPS would have to operate with market dominant rates that could increase no faster than CPI-DS. Doing so would require USPS to keep its costs sufficiently low, and its efficiency sufficiently high, to turn an operating profit with such capped rates.

Most appropriately, a CPI-DS price cap would require USPS to seek to match the efficiencies of private-sector delivery companies. CPI-DS reflects prices charged by private-sector delivery companies, including the two national logistics and delivery companies most similar to USPS: UPS and FedEx. Efficiency gains by UPS and FedEx (as well as other delivery companies) place downward pressure on prices in the CPI-DS index, and, to remain financially stable under such a price constraint, USPS would face pressure to make comparable efficiency gains.

While a CPI-DS price cap would have all these virtues, it would also have the critical benefit of helping provide USPS sufficient revenue to achieve financial stability. Past trends indicate that CPI-DS would almost certainly provide an appreciably greater ceiling for market dominant prices than would CPI-U. As NALC demonstrated in Chart 3 of its March 20, 2017 Comment, see NALC Comment at 13, CPI-DS outpaced CPI-U over the decade from 2006 to 2016, increasing a total of 60.7%, compared to CPI-U's total increase during the same period of 19.6%.

There is no doubt that higher prices set under a CPI-DS price cap would have generated significantly more revenue for USPS. Despite the growth of digital technology as an alternative to mail, the price elasticities of USPS's market dominant products remain low, especially for First-Class Mail. See OIG, *Analysis of Postal Price Elasticities* (May 1, 2013), at ii ("Price increases *will* increase revenues .... The demand for postal products remains price inelastic") (emphasis added).<sup>10</sup>

Using USPS's estimate of a -0.19 price elasticity for First-Class Mail, we calculate that higher First-Class Mail prices permitted by a CPI-DS price cap would have caused First-Class Mail volume in 2016 to dip by 4 billion pieces, but would have generated additional

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<sup>10</sup> The Inspector General writes "a case can be made that [postal] products are becoming *less* price sensitive. This may be because customers most likely to leave the Postal Service for the Internet have already done so, leaving the remaining customers more loyal in the face of price increases." *Id.* (preface) (emphasis in original).

revenue of \$6.6 billion. As shown in Chart 4 in NALC’s March 20, 2017 Comment, see NALC Comment at 15, for the period 2006 to 2016, a CPI-DS price cap could have generated a total \$56.8 billion additional revenue for USPS. That would have erased much of the \$59 billion deficit that USPS incurred from FY 2006 to FY 2016, see *Findings* at 171 (Table II-12), and would have helped USPS achieve financial stability.

It should be noted, however, that while CPI-DS would have given USPS greater rate authority, it is unlikely USPS would have used the full authority. Mailers have alternatives (electronic or otherwise) for nearly every market dominant product. That reality would likely have constrained USPS price increases.

But even if USPS had raised rates as much as CPI-DS allowed over the past ten years, market dominant products would still have been relatively inexpensive. Had a CPI-DS price cap been in place since 2006, and had USPS by December 2016 raised First-Class postage as high as the cap allowed, the average First-Class Mail price in 2016 could have reached 63 cents. That would still have been well below the 2016 price of a stamp (converted into US dollars) in Australia (77 cents), Canada (76 cents), France (85 cents), Germany (74 cents), the United Kingdom (80 cents) and Japan (73 cents).

NALC recognizes that CPI-DS, based on a far narrower set of prices, is more volatile than the more broad-based CPI-U. As the chart below shows, the annual rate of change in CPI-DS over the past 10 years has ranged from a high of 12.7% to a low of minus 2.0%.

CPI-U and CPI-Delivery Services Annual Percentage Changes (Rebased to Dec 2006=100)												
	12/2006	12/2007	12/2008	12/2009	12/2010	12/2011	12/2012	12/2013	12/2014	12/2015	12/2016	12/2017
CPI-U	100.000	104.081	104.176	107.011	108.612	111.830	113.777	115.485	116.359	117.208	119.639	122.163
Annual % Change	-	4.1%	0.1%	2.7%	1.5%	3.0%	1.7%	1.5%	0.8%	0.7%	2.1%	2.1%
CPI-Delivery Services	100.000	110.525	116.301	118.211	133.191	148.376	155.840	160.869	162.715	164.053	160.693	171.711
Annual % Change	-	10.5%	5.2%	1.6%	12.7%	11.4%	5.0%	3.2%	1.1%	0.8%	-2.0%	6.9%

That volatility, however, is not grounds to reject use of CPI-DS as the price cap index. The PAEA allows USPS to “bank” unused rate authority, for use in a later year. See 39 U.S.C.

§3622(d)(2)(C)(ii).<sup>11</sup> In those years that CPI-DS jumps substantially, USPS could opt to use only as much rate authority as would be consistent with market conditions and could “bank” the rest. By “banking” rate authority, USPS could thus smooth out rate hikes.<sup>12</sup>

Assuming CPI-DS continues to outpace CPI-U, a price cap using the CPI-DS index would help give USPS the revenue it desperately needs to generate retained earnings. USPS could use these retained earnings to make critically needed capital expenditures in its plants, equipment and vehicles, to pay down its debt and, in general, to maintain and improve existing levels of universal service.<sup>13</sup>

### **C. Amendment to Allow USPS Rate Authority to Respond to Exogenous Factors**

NALC also proposes that the Commission amend its regulation on exigency rate increases, 39 C.F.R. §3010.60, to allow USPS to request a rate adjustment to address such exogenous factors as increased delivery points, technological advances that accelerate electronic diversion, or significant new costs imposed upon USPS by congressional, regulatory or other government action.

The exigent rate clause in the PAEA provides USPS with additional ratemaking authority in the event of “extraordinary or exceptional circumstances.” 39 U.S.C. §3622(d)(1)(E). The Commission has interpreted the clause as applying to an unforeseen macroeconomic event like the Great Recession. See December 24, 2013 *Order Granting*

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<sup>11</sup> USPS has never used the “banking” provision because it has had to raise rates as much as the CPI-U allowed -- another indication of the inadequacy of the CPI-U price cap.

<sup>12</sup> Alternatively, the Commission could address the volatility of CPI-DS by basing the price cap not on each year’s CPI-DS change, but on a multi-year running average. Such a five-year average would provide a smoother rate ceiling.

<sup>13</sup> Establishing the starting date for the use of the CPI-DS index would depend on how the Commission rules on NALC’s proposed “true-up” increase. If the Commission were to accept the proposed “true-up” increase for implementation in 2018, then the new CPI-DS cap might appropriately be delayed until the following year. Alternatively, if the Commission chose to spread out the “true up” increase over five years, the Commission should consider implementing the CPI-DS price cap in 2018.

*Exigent Price Increase*, Docket No. R2013-11 (Order No. 1926). However, USPS needs the flexibility to respond with rate adjustments not only to unanticipated macroeconomic events but also to other exogenous developments affecting market dominant volumes and the cost of universal delivery.

Exogenous factors that USPS may anticipate but cannot control, such as increasing delivery points or volume-depressing technological change, might require rate adjustments beyond the price index -- subject, of course, to evidentiary hearings and approval by the Commission. Moreover, USPS must also be able to respond to significant new costs imposed in the future by legislative, regulatory or other government action.

For example, just as it required USPS to prefund retiree health care costs in 2006, a misguided Congress could in the future require USPS to prefund workers' compensation costs -- as was proposed in 2014 (Senate Bill S.1486). Were Congress to impose such a new mandate, USPS would need additional rate authority to bear the cost. Or, as proposed by the pending STOP Act bill aimed at combatting the opioid epidemic, Congress might require USPS to take steps to counter the importation of illegal drugs, and in doing so, make USPS responsible for hundreds of millions of dollars in new fees on international shipments. The amendment NALC proposes here would ensure that USPS could adjust rates to pay for these newly imposed costs.

Accordingly, NALC proposes that the Commission amend 39 C.F.R. §3010.60 to allow rate requests for exogenous developments and factors, even if foreseeable, including both new market conditions and congressional, administrative or other government action that

imposes significant new costs on USPS.<sup>14</sup>

**D. Base the Entire Proposed 1% Additional Rate Authority on Service Standard Targets**

Finally, NALC urges the Commission to re-formulate its .75%+.25% Proposal, to make the entire 1% additional rate authority contingent on USPS maintaining service standards. Making a portion of the 1% additional rate authority contingent on USPS hitting an efficiency target is unnecessary and creates the wrong incentives.

USPS already has sufficient incentive to increase efficiency. Efficiency gains cut USPS's costs and save it money. With boosted savings as the payoff, USPS does not need an additional incentive to increase efficiency. Moreover, USPS has a built-in incentive for efficiency gains under the PAEA price cap system. Under any price indexing system, including both the current PAEA price cap and the price cap system NALC proposes here, the regulated entity is effectively required to match the average productivity growth achieved by the companies offering the products covered by the index. In other words, an efficiency incentive already exists no matter what price index is used to cap postage rate increases.

On the other hand, USPS *does* need an incentive to maintain service standards. Postal management has repeatedly shown that it responds to financial challenges by degrading standards as a means to save money. Diminished quality of service only drives down customer demand, thus worsening, not improving, USPS's financial plight. The Commission should use the entire 1% additional rate authority as an incentive to USPS to avoid that short-sighted approach and instead to maintain service standards. Making the entire 1% contingent on USPS

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<sup>14</sup> NALC suggests that the Commission consider allowing the amendment to work in both directions: if congressional or other government action in the future *relieved* USPS of significant existing costs, stakeholders could be allowed to initiate Commission proceedings to rollback market dominant product rates commensurate with USPS's reduced costs. For example, the Commission could provide a mechanism for reducing market dominant rates were Congress to reduce USPS's retiree health care costs through the Medicare integration currently proposed by H.R. 756.

maintaining service standards would be good for the long-term health of the business and also satisfy Congress' goal, expressed in Objective # 3, that the ratemaking system seek "[t]o maintain high quality service standards."

### **CONCLUSION**

For the reasons set forth above, the Commission's ratemaking would not achieve the objectives in 39 U.S.C. §3622(b). NALC's proposals, however, would. Accordingly, the Commission should adopt NALC's proposals.

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